

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Devaney	Team: Squad #4	CCRB Case #: 202003769	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 7:28 PM	Location of Incident: North East corner of West 27th Street and 7th Avenue	Precinct: 10	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 06/01/2020 4:02 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 06/01/2020 4:02 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Hector Torres	01787	937643	SRG 4
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Loftus	18151	935198	DIS CTL
2. POM Christophe Boddy	14086	965953	013 PCT
3. SGT Joshua Gregory	01456	949062	SRG 3
4. POM Brett Jackson	11084	951844	SRG 4
5. CHIEF Fausto Pichardo	00000	923460	P S B

Officer(s)	Allegation	Investigator Recommendation
A.POM Hector Torres	Force: Police Officer Hector Torres used physical force against § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	
C.POM Hector Torres	Abuse: Police Officer Hector Torres did not obtain medical treatment for § 87(2)(b)	

### Case Summary

On June 1, 2020, § 87(2)(b) filed this complaint with the CCRB's call processing system.

On May 30, 2020, at approximately 7:28 p.m., officers, including Police Officer Hector Torres, of SRG 4, forced § 87(2)(b) to the ground near the intersection of West 27<sup>th</sup> Street and Seventh Avenue in Manhattan (**Allegation A: Force**, § 87(2)(g); **Allegation B: Force**, § 87(2)(g) § 87(2)(b)). § 87(2)(b) sustained abrasions on his elbow and knees. PO Torres brought § 87(2)(b) to One Police Plaza for arrest processing. PO Torres allegedly did not provide medical treatment for § 87(2)(b) (**Allegation C: Abuse of Authority**, § 87(2)(g)).

The investigation obtained two body-worn camera (BWC) videos (Board Review 03-04).

### Findings and Recommendations

**Allegation (A) Force: Police Officer Hector Torres used physical force against § 87(2)(b)**

**Allegation (B) Force: Officers used physical force against § 87(2)(b)**

§ 87(2)(b) provided a phone statement and an interview to the CCRB which were generally consistent except where noted below (Board Review 01-02, respectively).

§ 87(2)(b) testified in his phone statement that he was walking down Seventh Avenue with his girlfriend, § 87(2)(b) who was riding a bicycle, when they encountered a crowd of people protesting (Board Review 01). § 87(2)(b) and § 87(2)(b) had no intention of joining the protest. When he was near West 27<sup>th</sup> Street, § 87(2)(b) heard an officer tell the crowd to disperse and move out of the street. § 87(2)(b) and § 87(2)(b) moved to the sidewalk but were separated by the crowd. § 87(2)(b) looked for § 87(2)(b) and saw officers grab § 87(2)(b)'s bike. § 87(2)(b) approached the officers and said that § 87(2)(b) was not part of the protest. The officers told § 87(2)(b) to move back, and he moved back onto the sidewalk. § 87(2)(b) repeated to the officers that he and § 87(2)(b) were not part of the protest. An officer pointed to § 87(2)(b) and told officers to apprehend him. About three to five uniformed, male officers grabbed § 87(2)(b) lifted him up, and threw him to the ground. § 87(2)(b) hit his elbow, aggravating a prior injury.

In his interview, § 87(2)(b) recounted that § 87(2)(b) was standing with a female officer and that he was not asked to move back (Board Review 02). § 87(2)(b) stated that there were four male officers standing between him and § 87(2)(b). An officer pointed at § 87(2)(b) and told the other officers, "Get him!" The group of officers grabbed § 87(2)(b) on his arms, back, head, and neck, and forced him to the ground. § 87(2)(b) was unable to describe which officers grabbed which areas of his body or how he was taken to the ground. § 87(2)(b) sustained abrasions on his knees and elbows. This caused a preexisting head injury of § 87(2)(b) to worsen. § 87(2)(b) did not receive medical attention.

§ 87(2)(b) decided not to provide a statement to the CCRB (Board Review 05).

According to TRI § 87(2)(b), PO Torres used a "forcible takedown" to overcome § 87(2)(b)'s "resistance or aggression" (Board Review 06). This force caused a minor laceration to § 87(2)(b)'s arm. It was noted that medical attention was offered, but § 87(2)(b) refused. Attached to this report is a photo that depicts an abrasion to § 87(2)(b)'s elbow.

PO Torres testified that he had difficulty remembering this incident since he had responded to many protests around this date (Board Review 07). PO Torres stated that the crowd was told to disperse,

but he did not recall how or who told them. PO Torres believed he may have seen § 87(2)(b) in the crowd, but he did not recall what § 87(2)(b) was doing. Chief of Patrol Fausto Pichardo grabbed § 87(2)(b) and handed him to PO Torres to arrest him for failing to disperse. PO Torres did not recall if he saw § 87(2)(b) failing to disperse. PO Torres did not recall what § 87(2)(b) looked like or if he had any injuries. PO Torres did not recall using any physical force against § 87(2)(b). PO Torres did not recall any other officer using physical force against § 87(2)(b). PO Torres stated he prepared TRI report #§ 87(2)(b), per his memo book, but he did not have an independent recollection of preparing this report. Generally, the “Completing Member” listed is the officer who made the report.

Witness officer Police Officer Brett Jackson from SRG 4 testified that he assisted PO Torres with escorting § 87(2)(b) to the prisoner van, but he did not see how § 87(2)(b) was apprehended (Board Review 08). PO Jackson did not see any officers use force against § 87(2)(b).

All the BWC videos began after the alleged forcible takedown and did not capture § 87(2)(b)'s apprehension (Board Review 03-04).

The investigation determined that PO Torres used a forcible takedown against § 87(2)(b) per the TRI report that PO Torres prepared.

According to NYPD Patrol Guide Procedure 221-01, officers may use force when it is reasonable to ensure the safety of another person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody (Board Review 09). Uses of force must be reasonable under the circumstances or else it will be deemed excessive and in violation of Department policy.

§ 87(2)(b) testified that he was compliant with officers, while the PO Torres noted on the TRI that § 87(2)(b) was resisting or using aggression. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (C) Abuse of Authority: Police Officer Hector Torres did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) testified in his phone statement that he was removed to One Police Plaza for arrest processing (Board Review 01). He told PO Torres that his elbow was in pain. PO Torres told § 87(2)(b) to not mention his injury or else the process would take longer. PO Torres took a photo of § 87(2)(b)'s elbow.

In his CCRB interview, § 87(2)(b) testified that he felt lightheaded and “delusional” during the incident because he had not eaten all day (Board Review 02). § 87(2)(b) asked PO Torres if he could be taken to the hospital. PO Torres replied, “If you go to the hospital, the process will take longer. What do you want to do?” § 87(2)(b) chose not to go to the hospital at that time because PO Torres led him to believe that he would be processed more quickly if he chose not to receive medical treatment. Additionally, § 87(2)(b) stated that he suffered from bleeding in his brain, a condition that was exacerbated during this incident. § 87(2)(b) went to § 87(2)(b)

approximately three weeks later in regard to this injury, but he did not provide any medical records.

Although § 87(2)(b)'s statements were not consistent about which ailment § 87(2)(b) wanted medical attention for, they are consistent with the fact that § 87(2)(b) requested medical attention, and PO Torres replied that receiving medical attention would extend § 87(2)(b)'s time in custody.

According to TRI # § 87(2)(b), prepared by PO Torres, § 87(2)(b) sustained "minor lacerations/abrasion" as a result of police action (Board Review 06). The report contained a photo of an abrasion on § 87(2)(b)'s elbow. The report noted that medical attention was offered to § 87(2)(b) but he refused. The report also noted that a Medical Treatment of Prisoner Report (MTPR) was prepared.

The investigation requested this MTPR from IAB but did not receive it, despite follow-up attempts (Board Review 10).

PO Torres did not note preparing an MTPR in his memo book (Board Review 11).

PO Torres testified that he remained with § 87(2)(b) throughout the booking process (Board Review 07). He did not recall seeing any injuries on § 87(2)(b). PO Torres viewed the TRI report including the photo of § 87(2)(b)'s abrasion. PO Torres did not recall preparing the TRI report or § 87(2)(b)'s injury. § 87(2)(b) did not tell PO Torres that he was not feeling well. At no point did § 87(2)(b) request medical attention or to go to the hospital from PO Torres or any other officer. PO Torres stated during his interview that he would have taken § 87(2)(b) to the hospital if he asked.

None of the BWC videos capture § 87(2)(b)'s arrest processing (Board Review 03-04).

The investigation determined that § 87(2)(b) had a visible injury on his elbow, per his statement and the TRI report.

According to NYPD Patrol Guide Procedure 210-04, when a prisoner requires medical aid, the officer must request an ambulance and remove the prisoner to a hospital directly from the place of arrest (Board Review 12).

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 13).
- Police Officer Hector Torres has been a member of service for 16 years and has been a subject in five additional cases and 11 allegations, none of which were substantiated (Board Review 14). § 87(2)(g)

**Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming that officers caused personal injuries, psychological distress, and suffering. § 87(2)(b) is seeking \$1,000,000 as redress (Board Review 15). There is no 50H hearing scheduled.

- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Squad: 4

Investigator:

  
Signature

Inv. Devaney

Print Title & Name

2/11/2022

Date

Squad Leader:

Raquel Velasquez

Signature

IM Raquel Velasquez

Print Title & Name

02/11/2022

Date

Reviewer:

Signature

Print Title & Name

Date